

House File 2196 - Introduced

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BY S. OLSON and SANDS

A BILL FOR

1 An Act relating to the enforcement of natural resource
2 regulations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

ROUTINE INSPECTION CHECKS

Section 1. NEW SECTION. **462A.21 Routine inspection checks.**

1. For purposes of this section, "*routine inspection check*" means an inspection of a watercraft, an individual operating a watercraft, or a passenger on a watercraft which is conducted by the department without reasonable suspicion while the watercraft is on a water of this state under the jurisdiction of the commission.

2. The department may conduct routine inspection checks of watercraft under this chapter only as provided in this section. A routine inspection check shall only be conducted to enforce compliance with any of the following:

- a. The seaworthiness of the watercraft.
- b. Safety equipment required for the watercraft.
- c. The provisions of chapters 481A and 483A.

3. A routine inspection check conducted under this section shall meet the following requirements:

a. The location of the routine inspection check, the time period during which the routine inspection check will be conducted, and the procedure to be used while conducting the routine inspection check shall be determined by policymaking administrative officers of the department.

b. The department shall conduct a routine inspection check only if it notifies the general public in the county of the location of the routine inspection check in the same manner as provided in section 481A.13A.

c. The location of the routine inspection check shall be selected for its safety and visibility to persons operating watercraft. The department shall provide advance warning of the routine inspection check to operators of watercraft, including by adequate advance warning signs, which shall be illuminated at night or under conditions of poor visibility.

d. There shall be uniformed officers and marked official vehicles or watercraft of the department involved, in

1 sufficient quantity and visibility to demonstrate the official
2 nature of the routine inspection check.

3 e. The selection of watercraft to be stopped shall not be
4 arbitrary.

5 f. The routine inspection check shall be conducted to
6 assure the safety of and to minimize the inconvenience to the
7 watercraft operators and passengers.

8 4. This section does not apply to the emergency inspection
9 of a watercraft conducted in response to an immediate threat to
10 the health, safety, or welfare of the public.

11 Sec. 2. NEW SECTION. 481A.13A Routine compliance checks.

12 1. For purposes of this section, "*routine compliance*
13 *check*" means the stopping and questioning, without reasonable
14 suspicion, of individuals regarding the compliance of the
15 individuals with the provisions of this chapter or chapter
16 483A while the individuals are at a location where the public
17 frequently congregates, recreates, or travels.

18 2. The department shall conduct a routine compliance check
19 only if it notifies the general public in the county of the
20 location of the routine compliance check, the time during which
21 the routine compliance check will be conducted, and the type of
22 routine compliance check to be conducted. The notice shall be
23 published at least three times in a newspaper with a general
24 circulation in the county where the routine compliance check
25 is to be conducted.

26 3. The department shall not act in an arbitrary manner when
27 selecting an individual to be detained pursuant to a routine
28 compliance check.

29 DIVISION II

30 ARTIFICIAL LIGHT

31 Sec. 3. Section 481A.93, Code 2014, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 3. It is conclusively presumed that a
34 person is not in violation of this section if all of the
35 following apply:

1 *a.* The person is the owner or tenant of the land, or the
2 spouse or child of the owner or tenant who resides with the
3 owner or tenant.

4 *b.* The person is not apprehended taking a bird or animal on
5 the land by using artificial light.

6 DIVISION III

7 CONFISCATION OF FIREARMS

8 Sec. 4. NEW SECTION. **483A.29 Confiscation of firearms.**

9 The department shall not confiscate a firearm possessed by a
10 person for an alleged violation of chapter 481A or this chapter
11 if the person is any of the following:

12 1. The owner or tenant of the land on which the alleged
13 violation occurred.

14 2. The spouse or child of the owner or tenant of the land
15 on which the alleged violation occurred, if the person resides
16 with the owner or tenant.

17 DIVISION IV

18 HUNTING

19 Sec. 5. Section 483A.24, Code 2014, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 19. The department shall not impose a
22 penalty more severe than the issuance of a warning to a person
23 who hunts on neighboring land without having obtained a license
24 required under this chapter if all of the following apply:

25 *a.* The person is an owner or tenant of land, or is a family
26 member of such owner or tenant, who may hunt on the owner's or
27 tenant's land as provided in this section.

28 *b.* The neighboring land where the person was apprehended
29 borders the owner's or tenant's land.

30 *c.* The person was apprehended within one thousand twenty
31 feet from the border of the owner's or tenant's land.

32 *d.* The person did not take an animal on the land or the
33 person took an animal that the person could have taken under
34 this section on the owner's or tenant's land.

35 *e.* The person has not previously been guilty of hunting on

1 the neighboring land or any other land bordering the owner's
2 or tenant's land.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 GENERAL. This bill provides for the enforcement of a number
7 of provisions by the department of natural resources (DNR)
8 relating to recreation, including regulations involving boating
9 and wildlife management. Specifically the bill regulates
10 watercraft operating on navigable waters within the territorial
11 limits of this state (Code chapter 462A), wildlife conservation
12 (Code chapter 481A), and fishing and hunting licenses,
13 contraband, and firearms (Code chapter 483A).

14 ROUTINE INSPECTION CHECKS. The bill provides for routine
15 inspection checks conducted to enforce watercraft and wildlife
16 management regulations in circumstances in which the DNR does
17 not have a reasonable suspicion that a specific offense is
18 being committed. The bill provides that in both cases the
19 DNR must publish notice of the routine inspection check in a
20 newspaper having a general circulation in the county where the
21 routine inspection check is to be conducted. It also provides
22 that the selection of the individuals to be subjected to a
23 routine inspection check cannot be arbitrary.

24 SPECIAL REQUIREMENTS FOR WATERCRAFT INSPECTION. The bill
25 provides that a routine inspection check of watercraft or
26 an operator or passenger is limited to enforcing compliance
27 with certain requirements, including the seaworthiness of the
28 watercraft, safety equipment requirements, and enforcement of
29 wildlife management regulations. In addition, the DNR must
30 comply with a number of procedural requirements that involve
31 how routine inspection checks are to be conducted, methods
32 to notify and alert watercraft operators and passengers of a
33 routine inspection check, and where the routine inspection
34 check may be located.

35 EXCEPTIONS FOR OWNERS, TENANTS, AND FAMILY MEMBERS. The

1 bill provides several exceptions for a qualified person who
2 is an owner or tenant of land or family member who resides
3 with the owner or tenant and is alleged to have committed a
4 prohibited act on the owner's or tenant's land or neighboring
5 land.

6 EXCEPTION APPLIED TO THE USE OF ARTIFICIAL LIGHT. The bill
7 provides that such a qualified person who uses an artificial
8 light is conclusively presumed not to be in violation of the
9 prohibition against taking or attempting to take game using an
10 artificial light, unless the qualified person is apprehended
11 taking the game (Code section 481A.93).

12 EXCEPTION APPLIED TO THE CONFISCATION OF FIREARMS. The bill
13 prohibits the DNR from confiscating a firearm in the possession
14 of the qualified person for an alleged violation of a wildlife
15 management law.

16 EXCEPTION APPLIED TO THE TAKING OF GAME ON NEIGHBORING
17 LAND. The bill amends a provision that allows a qualified
18 person to take game without a license on the land or obtain
19 a special license to hunt deer or wild turkey (Code section
20 483A.24). The bill provides that the DNR must issue a warning
21 to a qualified person apprehended hunting on neighboring land.
22 The exception applies if the qualified person was apprehended
23 within one-half mile from the owner's or tenant's land, the
24 person did not take an animal on the neighboring land or the
25 person took an animal that the person could have taken on the
26 owner's or tenant's land, and the person has not previously
27 been guilty of hunting on any neighboring land.